



Agenda Item Number: _____

BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: January 26, 2010

Department: Zoning, Building, Planning **Staff Contact:** Mari Simbaña, Program Planner

TITLE: APPEAL: Zone Map Amendment from A-1 to C-N (CZ-80003/CO-90010)

COUNTY PLANNING COMMISSION RECOMMENDATION:

Denial

SUMMARY:

On February 23, 2009, the agent submitted an application of appeal (Attachment 1). The letter of justification for appeal from the agent articulates that, "CPC erred in applying County plans, policies and ordinances in arriving at their recommendation." and that the CPC decision was not supported by, "substantial relevant evidence."

Subsequent to the appeal hearing, the agent submitted a request for a 90-day deferral, dated March 20, 2009, related to Bernalillo County Public Works process of acquisition of property for the Eubank widening project. At the March 24, 2009 public hearing, the Board of County Commissioners deferred the case to the June 23, 2009 hearing. In a letter dated June 20, 2009, the agent requested a 90-day deferral, which was granted by the Commissioners at the June hearing. The agent requested another 90-day deferral in a letter dated September 17, 2009 (Attachment 4), which the Commissioners agreed to and expect to hear the case on January 26, 2010. To date, no new materials have been submitted.

The case was initially heard at the August 6, 2008 CPC hearing for a zone change from A-1 to O-1. The CPC deferred the case to the February 4, 2009 to allow the applicant time to prepare and re-submit a response to Resolution 116-86.

On December 12, 2008, the agent submitted a revised response to Resolution 116-86 and a request for a zone change to C-N to be considered at the February 4, 2009 hearing date. There continued to be strong opposition from community residents. The CPC voted to deny the request for a zone change in that the applicant failed to meet the requirements of Resolution 116-86 (Attachment 2).

At the February 4, 2009 public hearing, the County Planning Commission (CPC) voted (5-0) to deny the request for a zone map amendment from A-1 to C-N on Tract 17, Block 17, Unit 2, North Albuquerque Acres, on the northeast corner of Eubank Boulevard NE and Santa Monica Avenue NE, and containing approximately .73 acres. The decision was based on 7 Findings (Attachment 2).

Criteria for Evaluating Zone Map Changes and Special Use Permit Applications

Resolution 116-86 states that the applicant must demonstrate that the existing zoning is inappropriate because:

1. there was an error when the existing zone map was created; or
2. changed neighborhood or community conditions justifies a land use change; or
3. a different land use category is more advantageous to the community, as articulated in the Comprehensive Plan or other County Master Plan, the even though (1) and (2) above do not apply.

ATTACHMENTS:

1. Appeal application.
2. County Planning Commission Notice of Decision Letter (February 6, 2009).
3. County Planning Commission Information Packet.
4. Agent Letters Requesting Deferral.
5. Board of County Commissioners Notice of Decision Letters.
6. County Planning Commission February 2009 minutes.
7. County Planning Commission August 2008 minutes.
8. Current Letter Requesting Deferral and Notice of Decision Letter (September 24, 2009)

STAFF ANALYSIS SUMMARY

ZONING, BUILDING & PLANNING:

Staff Recommends Denial of Appeal.